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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,161	12/08/2000	Cameron G. Rouns	BAL-36	2368

7590 09/25/2002

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EXAMINER

LAM, ANN Y

ART UNIT PAPER NUMBER

3763

DATE MAILED: 09/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/733,161

Applicant(s)

ROUNS ET AL

Examiner

Ann Y. Lam

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 4. 6) ☐ Other: .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Willis et al., 5,997,503. Willis et al. disclose an elongated feeding tube (14) having a first end for insertion through a patient's abdominal wall and a second end including a feeding inlet, and an anchoring means (18 and 40) mounted on the feeding tube to retain said feeding tube within the stomach wherein said anchoring means has at least one internal retaining member comprised of a modified silicone elastomer, see column 3, lines 51-58.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis et al., 5,997,503, in view of Becker et al., 4,198,983.

Willis et al. disclose the invention substantially as claimed, see above. However, Willis et al. does not disclose the retaining member as being comprised of the specific materials as claimed by Applicant.

Becker et al., however, discloses a catheter comprised of materials as claimed by Applicant. The Becker et al. catheter is equivalent to the tube (14) in the Willis et al. device. It would have been obvious to form the Willis et al. tube out of materials disclosed by Becker et al. as known materials used to form catheters for medical purposes.

Specifically, as to claims 2, 3 and 9, Becker et al. disclose the modified silicone elastomer as being trifluoropropylsiloxane modified dimethylpolysiloxane, see column 2, lines 36-40, and column 3, lines 11-16.

As to claim 4, said modified silicone elastomer is a diphenylsiloxane modified dimethylpolysiloxane, see column 3, lines 11-15.

As to claim 5, the trifluoropropylsiloxane is from about 5 to 95 mole percent, see column 2, lines 25-30 and lines 63-65.

As to claim 6, the trifluoropropylsiloxane is from about 40-60 mole percent, see column 2, lines 25-30 and 63-65.

As to claims 7 and 10, the diphenylsiloxane content is from .5 to 50 mole percent, see column 2, lines 25-30 and lines 63-65.

As to claim 8 and 11, the diphenylsiloxane content is from about 10 to 25 mole percent, or is less than about 2 mole percent, see column 2, lines 25-30 and lines 63-65.

As to claims 12, the modified silicone elastomer is endcapped with a material dimethylvinylsiloxane groups, see column 2, lines 36-43, lines 54-55, and column 5, lines 23-30.

As to claim 13, the retaining member is comprised of a fluoro modified polysiloxane, see column 3, lines 11-16.

As to claim 14, said fluoro modified polysiloxane comprises a trifluoropropylsiloxane modified dimethylpolysiloxane, see column 3, lines 11-16.

As to claim 15, said polysiloxane comprises a dimethylpolysiloxane, see column 2, lines 38-43.

As to claim 16, the fluoro modified polysiloxane contains from about 40 mole percent to about 60 mole percent fluoro groups, see column 2, lines 25-30 and lines 63-65.

As to claim 17, the fluoro modified polysiloxane contains trifluoropropylsiloxane in an amount from about 40 mole percent to about 60 mole percent, see column 2, lines 25-30 and lines 63-65.

As to claim 18, the fluoro modified polysiloxane is endcapped with a material dimethylvinylsiloxane groups, see column 3, lines 11-16.

As to claim 19, said fluoro modified polysiloxane contains a filler, see column 2, line 32.

As to claim 20, retaining member is comprised of a phenyl modified polysiloxane, see column 3, lines 11-16.

As to claim 21, the phenyl modified polysiloxane comprises a diphenylsiloxane modified demethylpolysiloxane, see column 3, lines 11-16.

As to claim 22, said polysiloxane comprises dimethylpolysiloxane, see column 3, lines 11-16.

As to claim 23, said phenyl modified polysiloxane contains diphenylsiloxane groups in an amount less than about 2 mole percent, se column 2, lines 25-30.

As to claim 24, said phenyl modified polysiloxane contains phenyl groups in an amount less than about 2 mole percent, see column 2, lines 25-30.

As to claim 25, the phenyl modified polysiloxane is endcapped with a material dimethylvinylsiloxane groups, see column 2, lines 36-43, and column 3, lines 11-16.

As to claim 26, said phenyl modified polysiloxane contains a filler, see column 2, line 32.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Heimke et al., 4, 959,054, discloses an implant device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (703)308-3552. The fax phone numbers


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for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

A.L.

September 19, 2002

  
ANH TUAN T. NGUYEN  
PRIMARY EXAMINER

9/27/02